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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,160

08/24/2006

Rex W. Newkirk

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EXAMINER

WEIER, ANTHONY J

ART UNIT

PAPER NUMBER

1781

NOTIFICATION DATE

DELIVERY MODE

04/05/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

karen.forgie@blakes.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/535,160	<b>Applicant(s)</b> NEWKIRK ET AL.	
	<b>Examiner</b> Anthony Weier	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al with evidence from Vincent Corp. literature.

Maenz et al discloses a process and use of a combination of apparatus wherein oilseed material is mixed with water and extracted wherein the mixture obtained is then pass through a compression belt filter press, inherently providing a chamber at least partially bound by filter media, and the presscake resulting is extracted a second time. Said presscake, a solid residue, is then mixed with water and passed through a dewatering screw press (e.g. Example 1, Model CP-6, see Vincent Corporation literature).

The dewatering screw press is considered to be an impeller-type filter since the screw therein gives a rotation movement to material wherein an impeller is considered to be a part of an apparatus designed to impart movement by rotation. It should be further noted that the dewatering screw press used in Maenz et al results in production of an extract further processed to remove small solids from same rich in carbohydrate and protein as same originates from canola oilseed meal that has been previously defatted via hexane extraction (e.g. Example 1).

It should be noted that the impeller type filter of Maenz et al is further discloses filter media that forms a portion of the vessel boundary with an auger driven impeller disposed for movement therein closely fitting to said portion (see the screw spindle assembly and screen employed in the Vincent horizontal press). In addition, the Vincent Horizontal press used in Maenz et al employs mesh filtration including apertures as low as 0.01" but also typically between 0.020 and 0.095" wherein same has a size which would permit some fine particles to pass. Clearly, this is the case since Maenz et al further treats the extract from the first extraction with the screw press to remove pulp therefrom (col. 9, line 3).

The claims differ in that the instant claims require the impeller filtration step to occur first followed by compression filtration. Maenz et al discloses the use of both of these steps but in reverse order. However, it is not seen where the difference in order of same would provide for a patentable distinction, and, absent a showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time of the invention to have applied either step first as a matter of preference depending on, for example, the order of apparatus already set up at the plant. Moreover, it would appear that the steps in reverse order provide the same product with no unexpected advantages realized for the step order in the instant claims over that employed in Maenz et al.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al taken together with Heissenberger et al with evidence from Vincent Corp. literature.

Maenz et al is silent regarding the compression filter having the particular one

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par filter belts directed toward one another such that same, while conveying the residue, gradually and progressively compresses same between the belts. Such format of compression filter is notoriously well known as taught, for example, by Maenz et al, and it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed such compression filter means as a matter of preference among known compression filter alternatives.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maenz et al taken together with Uchiyama with evidence from Vincent Corp. literature.

The claims further call for the compression filter and related chamber to have a piston adapted for compressing solid residue against a filter. However, such compression filter is notoriously well known as taught, for example, by Uchiyama (see Figure 1; element 30), and it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed such compression filter means as a matter of preference among known compression filter alternatives.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier  
Primary Examiner  
Art Unit 1794

/Anthony Weier/  
Primary Examiner, Art Unit 1794

Anthony Weier  
March 29, 2010